UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHRISTOPHER WILLIAMS,

Case No.

Plaintiff,

v.

DOWN UNDER PUBS LLC and
JOSEPH T. SUO,

Defendants.
_____________________________________/

COMPLAINT

Plaintiff, CHRISTOPHER WILLIAMS, by his undersigned counsel, hereby files this Complaint and sues, DOWN UNDER PUBS LLC and JOSEPH T. SUO, for injunctive relief pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12181, et seq., (hereinafter the "A.D.A") and the ADA's Accessibility Guidelines, 28 C.F.R. Part 36 (hereinafter the "ADAAG").

JURISDICTION

1. This Court has original jurisdiction over the action pursuant to 28 U.S.C., §§1331 and 1343 for Plaintiff's claims arising under 42 U.S.C. § 12181. et seq., based upon Defendant's violations of Title III of the ADA (see also, 28 U.S.C. §§ 2201 and 2202).

2. Plaintiff currently resides in Brooklyn, New York. Plaintiff suffers from a spine injury, is a paraplegic, must ambulate in a wheelchair, and is a qualified individual with disabilities under the ADA. Plaintiff has visited the property and has encountered barriers to access. Plaintiff intends to return to the Facility to enjoy to goods and services offered therein.

However, his access to the Facility continues to be denied and/or substantially limited. His access will continue to be denied until Defendants remove the barriers, including those set forth in the Complaint at Paragraph 12 below.

3. Defendant, Joseph T. Sou, is an individual who transacts business in the State of New York and within this judicial district. Defendant is the owner/lessor, of the real property, which is the subject of this action located at 318 Van Brunt Street, Brooklyn, New York 11231 (hereinafter the “Facility”).

4. Defendant, DOWN UNDER PUBS LLC is a domestic corporation and transacts business in the State of New York and within this judicial district. Defendant is the lessee of the premises located at 318 Van Brunt Street, Brooklyn, New York 11231, and the owner/operator of a bar and restaurant located at the premises known as the Brooklyn Ice House (the “Facility”)

5. The Defendants’ Facility is a public accommodation and service establishment, and although required by law to do so, it is not in compliance with the ADA and ADAAG.

6. In this instance, Plaintiff visited the Facility and encountered barriers to access at the Facility, engaged barriers, suffered legal harm and injury, and will continue to suffer legal harm and injury as a result of the illegal barriers to access as set forth herein.

7. Plaintiff has suffered and continues to suffer direct and indirect injury as a result of the ADA violations that exist at the Facility.

8. All events giving rise to this lawsuit occurred in the State of New York. Venue is proper in this Court as the premises are located in the Eastern District.

FACTUAL ALLEGATIONS AND CLAIM

9. Plaintiff has recently attempted to access the facility, but could not do so without severe hardship, because of his disabilities, and the physical barriers to access and ADA

violations that exist at the Facility, which restrict and/or limit his access to the goods and services offered at the Facility. The ADA violations are more specifically set forth below.

10. Plaintiff intends to visit the Facility again in the near future in order to utilize all of the goods and services offered therein but will be unable to do so because of the physical barriers to access, dangerous conditions and ADA violations that exist at the facility that restrict and/or limit his access to the facility, including those barriers conditions and ADA violations more specifically set forth in this Complaint.

11. Defendants have discriminated against Plaintiff and others with disabilities by denying access to, and full and equal enjoyment of, the goods and services of the facility, as prohibited by 42 U.S.C., § 12182, et seq, and by failing to remove architectural barriers as required by 42 U.S.C., § 12182(b)(2)(A)(iv), and will continue to discriminate against Plaintiff and others with disabilities unless and until Defendants are compelled to remove all physical barriers that exist at the facility, including those specifically set forth herein, and make the facility accessible to and usable by persons with disabilities, including Plaintiff.

12. Defendants have discriminated against Plaintiff by failing to comply with the above requirements. A specific list of unlawful physical barriers, dangerous conditions and ADA violations, which preclude and/or limit Plaintiff's ability to access the Facility and full and equal enjoyment of the goods, services offered at the Facility include:

I. INACCESSIBLE ENTRANCE. ACCESSIBLE ROUTE TO ESTABLISHMENT NOT PROVIDED AS REQUIRED. ACCESSIBLE MEANS OF EGRESS NOT PROVIDED AS REQUIRED. EXISTING STEP AT ENTRANCE ACTS AS A BARRIER TO ACCESSIBILITY. REQUIRED RAMP NOT PROVIDED FOR STEP AT ENTRANCE.
   a. Contrary to ADAAG 206, ADAAG 206.1, ADAAG 206.2.1, ADAAG 206.4, ADAAG 206.4.1, ADAAG 207, ADAAG 207.1 and ADAAG 303.4.

II. REQUIRED MINIMUM MANEUVERING CLEARANCE NOT PROVIDED AT ENTRANCE DOOR. NON-COMPLIANT CHANGE

IN LEVEL WITHIN REQUIRED MANEUVERING CLEARANCE AT ENTRANCE DOOR.

a. Contrary to ADAAG 404.2.4 and ADAAG 404.2.4.4.

III. INACCESSIBLE DINING TABLES LOCATED AT INTERIOR DINING AREA. REQUIRED MINIMUM KNEE AND TOE CLEARANCE NOT PROVIDED AT INTERIOR DINING TABLES. A MINIMUM PERCENTAGE OF EXISTING INTERIOR DINING TABLES REQUIRED TO BE ACCESSIBLE NOT PROVIDED.

a. Contrary to ADAAG 226, ADAAG 226.1, ADAAG 902, ADAAG 306.2, ADAAG 306.2.3, ADAAG 306.2.5, ADAAG 306.3 and ADAAG 306.3.5.

IV. INACCESSIBLE BAR. REQUIRED MINIMUM TOE AND KNEE CLEARANCE NOT PROVIDED AT BAR. NON-COMPLIANT HEIGHT OF BAR EXCEEDS MAXIMUM HEIGHT ALLOWANCE. A PORTION (5%) OF BAR REQUIRED TO BE ACCESSIBLE NOT PROVIDED.

a. Contrary to ADAAG 226, ADAAG 226.1, ADAAG 902, ADAAG 902.1, ADAAG 902.2.

V. AD INACCESSIBLE EXTERIOR BACK DINING AREA. EXISTING STEP AT DOOR LEADING TO EXTERIOR BACK DINING AREA ACTS AS A BARRIER TO ACCESSIBILITY. REQUIRED RAMP NOT PROVIDED FOR STEP AT DOOR LEADING TO EXTERIOR BACK DINING AREA. REQUIRED MINIMUM CLEAR WIDTH NOT PROVIDED AT OPENING OF DOOR LEADING TO EXTERIOR BACK DINING AREA. REQUIRED MINIMUM MANEUVERING CLEARANCE NOT PROVIDED AT DOOR LEADING TO EXTERIOR BACK DINING AREA. ADDITIONAL STEPS AT TRAVEL PATH LEADING TO EXTERIOR BACK DINING AREA ACT AS A BARRIER TO ACCESSIBILTY.

a. Contrary to ADAAG 206.2.5, ADAAG 303.4, ADAAG 404.2.3, ADAAG 404.2.4, ADAAG 404.2.4.4 and ADAAAG 902.3

VI. NON-COMPLIANT FLOOR SURFACE AT EXTERIOR DINING AREA. BROKEN UNEVEN FLOOR SURFACE AT EXTERIOR DINING AREA.

a. Contrary to ADAAG 403, ADAAG 403.2, ADAAG 302 and ADAAG 302.1.

VII. INACCESSIBLE RESTROOM. REQUIRED MINIMUM CLEAR WIDTH NOT PROVIDED AT OPENING OF RESTROOM DOOR.

a. Contrary to ADAAG 404.2.3.

VIII. REQUIRED MINIMUM MANEUVERING CLEARANCE NOT PROVIDED AT RESTROOM DOOR.

a. Contrary to ADAAG 404.2.4.

IX. INACCESSIBLE DOOR LOCK AT RESTROOM DOOR. NON-COMPLIANT HEIGHT OF DOOR LOCK AT RESTROOM DOOR EXCEEDS MAXIMUM HEIGHT ALLOWANCE.

a. Contrary to ADAAG 404.2.7.

X. REQUIRED MINIMUM TURNING SPACE NOT PROVIDED IN RESTROOM.
   a. Contrary to ADAAG 603, ADAAG 603.1, ADAAG 603.2, ADAAG 603.2.1 and ADAAG 304.3.1.

XI. INACCESSIBLE LAVATORY IN RESTROOM. REQUIRED MINIMUM CLEAR FLOOR SPACE NOT PROVIDED AT LAVATORY.
   a. Contrary to ADAAG 606, ADAAG 606.2 and ADAAG 305.3.

XII. REQUIRED MINIMUM KNEE AND TOE CLEARANCE NOT PROVIDED AT LAVATORY.
   a. Contrary to ADAAG 606, ADAAG 606.2, ADAAG 306.2, ADAAG 306.2.3, ADAAG 306.2.5, ADAAG 306.3, ADAAG 306.3.3 and ADAAG 306.3.5.

XIII. INACCESSIBLE MIRROR IN RESTROOM. NON-COMPLIANT HEIGHT OF MIRROR LOCATED ABOVE LAVATORY EXCEEDS MAXIMUM HEIGHT ALLOWANCE.
   a. Contrary to ADAAG 603.3.

XIV. INACCESSIBLE WATER CLOSET IN RESTROOM. REQUIRED MINIMUM CLEARANCE NOT PROVIDED AT WATER CLOSET.
   a. Contrary to ADAAG 604, ADAAG 604.3 and ADAAG 604.3.1.

XV. REQUIRED GRAB BARS NOT PROVIDED ON REAR AND SIDE WALLS OF WATER CLOSET.
   a. Contrary to ADAAG 604.5.

XVI. NON-COMPLIANT DISTANCE OF WATER CLOSET FROM SIDE WALL.
   a. Contrary to ADAAG 604.2.

XVII. INACCESSIBLE TOILET PAPER DISPENSER. NON-COMPLIANT DISTANCE OF TOILET PAPER DISPENSER FROM WATER CLOSET.
   a. Contrary to ADAAG 604.7.

13. The above list is not to be considered all-inclusive of the barriers existing at the Facility. Plaintiff may require an inspection of the facility, in order to determine all of the ADA violations.

14. The removal of the physical barriers, dangerous conditions and ADA violations set forth herein is readily achievable and can be accomplished and carried out without much difficulty or expense. 42 U.S.C. § 12182(B)(2)(A)(iv); 42 U.S.C. § 12181(9); 28 C.F.R, § 36.304.

15. Plaintiff is without adequate remedy at law and is suffering irreparable harm, and reasonably anticipates that he will continue to suffer irreparable harm unless and until Defendants are required to remove the physical barriers, dangerous conditions and ADA violations that exist at the facility, including those set forth herein.

16. The Plaintiff has been obligated to retain undersigned counsel for the filing and prosecution of this action. The Plaintiff is entitled to have his reasonable attorney's fees, costs and expenses paid by the Defendants, pursuant to 42 U.S.C., §§ 12205 and 12217.

17. Pursuant to 42 U.S.C. §12188(a), this Court is provided with authority to grant injunctive relief to Plaintiff, including an order to alter the subject facility to make it readily accessible to and useable by individuals with disabilities to the extent required by the ADA, and closing the subject facility until the requisite modifications are completed.

WHEREFORE, Plaintiff respectfully requests that the Court issue a permanent injunction enjoining Defendants from continuing is discriminatory practices, ordering Defendants to remove the physical barriers to access and alter the subject facility to make it readily accessible to and useable by individuals with disabilities to the extent required by the ADA, closing the subject facility until the barriers are removed and requisite alterations are completed, and awarding Plaintiff his reasonable attorney's fees, expert fees, costs and litigation expenses incurred in this action.

Respectfully submitted,

s/ Jennifer E. Tucek, Esq.
Law Office of Jennifer Tucek, Esq.
Attorney for Plaintiff
Bar No. JT2811
201 East 87th Street, #9H
New York, N.Y. 10128
Ph: (917) 669-6991
TucekLaw@Gmail.com